

**TITLE 92 -- NEBRASKA DEPARTMENT OF EDUCATION
CHAPTER 87 -- REGULATIONS GOVERNING QUALIFIED ZONE ACADEMY
BONDS ALLOCATION**

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001 General Information

001.01 Purpose of this Chapter. Section 226 of the Taxpayer Relief Act of 1997, (Title 26, United States Code, Section 1397E, See Appendix A), provides that state or local governments within the jurisdiction of which is located a “qualified zone academy,” as defined in that Act, may issue “qualified zone academy bonds”, to “eligible taxpayers” for “qualified purposes” as those terms are defined in that Act. The Act further provides that the Secretary of Treasury, each calendar year, shall allocate among the states on the basis of their respective populations of individuals below the poverty line, an amount which such states’ qualified zone academies may issue in qualified zone academy bonds, and that this limitation amount allocated to each state shall be allocated by the State education agency to qualified zone academies within such states. This chapter provides the allocation procedure of the Nebraska Department of Education to eligible qualified zone academies.

001.02 Statutory Authority. Title 26, United States Code, Section 1397E(e), See Appendix A, provides:

Limitation on amount of bonds designated - - (1) National Limitation - - There is a national zone academy bond limitation for each calendar year. Such limitation is \$400,000,000 for 1998 and 1999, and, except as provided in Title 26, United States Code, Section 1397E(e)(4), zero (0) thereafter. (2) Allocation of Limitation - - The national zone academy bond limitation for a calendar year shall be allocated by the Secretary among the states on the basis of their respective populations of individuals below the poverty line (as defined by the Office of Management and Budget). The limitation amount allocated to a state under the preceding sentence shall be allocated by the State education agency to qualified zone academies within such state. (3) Designation Subject to Limitation Amount - - The maximum aggregate face amount of bonds issued during any calendar year which may be designated under Title 26, United States Code, Section 1397E(d)(1) with respect to any qualified zone academy shall not exceed the limitation amount allocated to such academy under Title 26, United States Code, Section 1397E(e)(2) for each calendar year.

Section 79-319 of the Nebraska Revised Statutes provides in part:

“The State Board of Education has the authority to...(5) receive and

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distribute according to law any money, commodities, goods, or services made available to the board from the state or federal government or from any other source and distribute money in accordance with any grant received, including the distribution of money from grants by the federal government to schools, preschools, day care centers, day care homes, nonprofit agencies, and political subdivisions of the state or institutions of learning not owned or exclusively controlled by the state or a political subdivision thereof, so long as no public funds of the state, any political subdivision thereof, or any public corporation are added to such grants.”

002 Definitions. For purposes of this chapter, “Department” shall mean the Nebraska Department of Education. The following definitions shall have the same meaning as used in Section 226 of the Taxpayer Relief Act of 1997, (Title 26, United States Code, Section 1397E):

002.01 Allocation/allocation of limitation, (Title 26, United States Code, Section 1397E(e)(2))

002.02 Eligible Location Education Agency, (Title 26, United States Code, Section 1397E(d)(4)B)

002.03 National Limitation, (Title 26, United States Code, Section 1397E(e)(1))

002.04 Private Business Contribution Requirement, (Title 26, United States Code, Section 1397E(d)(2))

002.06 Qualified Purpose, (Title 26, United State Code, Section 1397E(d)(5))

002.07 Qualified Zone Academy, (Title 26, United States Code, Section 1397E(d)(4))

002.08 Qualified Zone Academy Bond, (Title 26, United States Code, Section 1397E(d)(1))

003 Procedure and Method of Allocation to Qualified Zone Academies

003.01 School Districts or other eligible state or local governments under Title 26, United States Code, Section 1397E, within the jurisdiction of which a Qualified Zone Academy is located, may submit requests to the Department for allocation of any portion of the then existing allocation of limitation amount as allocated to the state of Nebraska. School districts, or other eligible governmental entities must specify which individual school, (or program within such school), it is that is within

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their jurisdiction that is a Qualified Zone Academy for which the allocation is requested and the amount requested. All such requests must be received by the Department by no later than November 1 of 1998, and by October 1 of each year thereafter. School districts or other eligible entities are limited to one allocation request per calendar year.

003.02 All such requests must be to the Department in writing and must demonstrate compliance with all applicable requirements for such allocation under Title 26, United States Code, Section 1397E in that all requests must:

003.02A: Be for an allocation for the issuance of a Qualified Zone Academy Bond(s) as defined by law and as demonstrated by:

003.02A1: The requesting school district or other eligible governmental entity's written assurance that at least 95 percent of the proceeds of such a bond issuance are to be used for a qualified purpose with respect to the Qualified Zone Academy.

003.02A2: The bond issuer being a local government within the jurisdiction of which such a Qualified Zone Academy is located. The request for allocation shall state the basis upon which the requesting entity has determined that the particular school or program within the school under its jurisdiction is a Qualified Zone Academy.

003.02A3: A written assurance that the bond issuer will designate such bond(s) for the purposes of issuance as a Qualified Zone Academy Bond.

003.02A4: The bond issuer certifying that it has written assurances that the private business contribution requirement will be met with respect to the Qualified Zone Academy.

003.02A5: The bond issuer certifying that it has the written approval of the Eligible Local Education Agency, (See Appendix A), for such bond issuance.

003.03 If all requirements of Section 003.02 are met, the Department will allocate, by December 31, to the school districts or other eligible governmental entities submitting the requests, as follows:

003.03A The amount of allocation requested; or,

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003.03B If the total of all the eligible requests received exceeds the allocation of limitation available then available to Nebraska pursuant to Title United States Code, Section 1397E, then an amount equal to the pro rata share of the available allocation of limitation based upon the amount requested. In no case shall a requesting entity receive an allocation amount which exceeds the amount it requested.

003.04 Pursuant to Title 26, United States Code, Section 1397E(e)(4), the Department shall carry over unallocated limitation amounts from one calendar year to the following calendar year. The total of the previous calendar year's unallocated limitation amounts shall be added to the current year's limitation amount.

003.05 Issuing school districts and other eligible issuing governmental entities are responsible for compliance with all applicable laws and regulations governing the terms and conditions of such bond issuance(s) upon being allocated any amounts by the Department.

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APPENDIX A - TITLE 26, UNITED STATES CODE, SECTION 1397E

§1397E. Credit to holder of qualified zone academy bonds.

(a) **Allowance of credit.** In the case of an eligible taxpayer who holds a qualified zone academy bond on the credit allowance date of such bond which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year the amount determined under subsection (b).

(b) **Amount of credit.** (1) **In general.** The amount of the credit determined under this subsection with respect to any qualified zone academy bond is the amount equal to the product of --

- (A) the credit rate determined by the Secretary under paragraph (2) for the month in which such bond was issued, multiplied by
- (B) the face amount of the bond held by the taxpayer on the credit allowance date.

(2) **Determination.** During each calendar month, the Secretary shall determine a credit rate which shall apply to bonds issued during the following calendar month. The credit rate for any month is the percentage which the Secretary estimates will permit the issuance of qualified zone academy bonds without discount and without interest cost to the issuer.

(c) **Limitation based on amount of tax.** The credit allowed under subsection (a) for any taxable year shall not exceed the excess of --

- (1) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over
- (2) the sum of the credits allowable under part IV of subchapter A (other than subpart C thereof, relating to refundable credits).

(d) **Qualified zone academy bond.** For purposes of this section --

(1) **In general.** The term 'qualified zone academy bond' means any bond issued as part of an issue if --

- (A) 95 percent or more of the proceeds of such issue are to be used for a qualified purpose with respect to a qualified zone academy established by an eligible local education agency,
- (B) the bond is issued by a State or local government within the jurisdiction of which such academy is located,
- (C) the issuer --
 - (i) designates such bond for purposes of this section.
 - (ii) certifies that it has written assurances that the private business contribution requirement of paragraph (2) will be met with respect to such academy, and
 - (iii) certifies that it has the written approval of the eligible local education

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agency for such bond issuance, and
(D) the term of each bond which is part of such issue does not exceed the maximum term permitted under paragraph (3).

(2) **Private business contribution requirement.** (A) In general. For purposes of paragraph (1), the private business contribution requirement of this paragraph is met with respect to any issue if the eligible local education agency that established the qualified zone academy has written commitments from private entities to make qualified contributions having a present value (as of the date of issuance of the issue) of not less than 10 percent of the proceeds of the issue.

(B) Qualified contributions. For purposes of subparagraph (A), the term 'qualified contribution' means any contribution (of a type and quality acceptable to the eligible local education agency) of --

- (i) equipment for use in the qualified zone academy (including state-of-the-art technology and vocational equipment)
- (ii) technical assistance in developing curriculum or in training teachers in order to promote appropriate market driven technology in the classroom.
- (iii) services of employees as volunteer mentors,
- (iv) internships, field trips, or other educational opportunities outside the academy for students, or
- (v) any other property or service specified by the eligible local education agency.

(3) **Term requirement.** During each calendar month, the Secretary shall determine the maximum term permitted under this paragraph for bonds issued during the following calendar month. Such maximum term shall be the term which the Secretary estimates will result in the present value of the obligation to repay the principal on the bond being equal to 50 percent of the face amount of the bond. Such present value shall be determined using as a discount rate the average annual interest rate of tax-exempt obligations having a term of 10 years or more which are issued during the month. If the term as so determined is not a multiple of a whole year, such term shall be rounded to the next higher whole year.

(4) **Qualified zone academy.** (A) In general. The term 'qualified zone academy' means any public school (or academic program within a public school) which is established by and operated under the supervision of an eligible local education agency to provide education or training below the postsecondary level if --

- (i) such public school or program (as the case may be) is designed in cooperation with business to enhance the academic curriculum, increase graduation and employment rates, and better prepare students for the rigors of college and the increasingly complex workforce,
- (ii) students in such public school or program (as the case may be) will be subject to the same academic standards and assessments as other students educated by the eligible local education agency,

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- (iii) the comprehensive education plan of such public school or program is approved by the eligible local education agency, and
- (iv)
 - (I) such public school is located in an empowerment zone or enterprise community (including any such zone or community designated after the date of the enactment of this section), or
 - (II) there is a reasonable expectation (as of the date of issuance of the bonds) that at least 35 percent of the students attending such school or participating in such program (as the case may be) will be eligible for free or reduced-cost lunches under the school lunch program established under the National School Lunch Act.

(B) **Eligible local education agency.** The term 'eligible local education agency' means any local education agency as defined in section 14101 of the Elementary and Secondary Education Act of 1965.

(5) **Qualified purpose.** The term 'qualified purpose' means, with respect to any qualified zone academy --

- (A) rehabilitating or repairing the public school facility in which the academy is established.
- (B) providing equipment for use at such academy.
- (C) developing course materials for education to be provided at such academy, and
- (D) training teachers and other school personnel in such academy.

(6) **Eligible taxpayer.** The term 'eligible taxpayer' means --

- (A) a bank (within the meaning of section 581),
- (B) an insurance company to which subchapter L applies, and
- (C) a corporation actively engaged in the business of lending money.

(e) **Limitation on amount of bonds designated.** (1) **National limitation.** There is a national zone academy bond limitation for each calendar year. Such limitation is \$400,000,000 for 1998 and 1999, and, except as provided in paragraph (4), zero thereafter.

(2) **Allocation of limitation.** The national zone academy bond limitation for a calendar year shall be allocated by the Secretary among the States on the basis of their respective populations of individuals below the poverty line (as defined by the Office of Management and Budget). The limitation amount allocated to a State under the preceding sentence shall be allocated by the State education agency to qualified zone academies within such State.

(3) **Designation subject to limitation amount.** The maximum aggregate face amount of bonds issued during any calendar year which may be designated under subsection(d)(1) with respect to any qualified zone academy shall not exceed the limitation amount allocated to such academy under paragraph (2) for such calendar year.

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- (4) **Carryover of unused limitation.** If for any calendar year --
- (A) the limitation amount for any State, exceeds
 - (B) the amount of bonds issued during such year which are designated under subsection (d)(1) with respect to qualified zone academies within such State, the limitation amount for such State for the following calendar year shall be increased by the amount of such excess.
- (f) **Other definitions.** For purposes of this section --
- (1) **Credit allowance date.** The term 'credit allowance date' means, with respect to any issue, the last day of the 1-year period beginning on the date of issuance of such issue and the last day of each successive 1-year period thereafter.
 - (2) **Bond.** The term 'bond' includes any obligation.
 - (3) **State.** The term 'State' includes the District of Columbia and any possession of the United States.
- (g) **Credit included in gross income.** Gross income includes the amount of the credit allowed to the taxpayer under this section.